

Practice Before the Commission

The Adjudication Division is comprised of the Data Center and the Regulatory Law Judges. The Division Director is both the Secretary of the PSC and the Chief Regulatory Law Judge. The Secretary is statutorily responsible for the records of the PSC and is specifically called upon to superintend the issuance of all PSC orders.

The Data Center is responsible for maintaining a complete and accurate record of every case that comes before the PSC. This department receives thousands of documents per month, each one of which must be reviewed, distributed and maintained in the permanent case file. The Data Center also issues hundreds of formal orders each month.

The Chief Judge is the Division Director of the Adjudication Division and acts as the Chief Judge of the eight-judge panel. The Judges receive training at the National Judicial College for procedural skills specific to the PSC and also at various utility seminars and conferences for substantive training in the disciplines of economics, accounting and engineering as they relate to the regulated utilities.

The Judge assigned to a case prepares and issues preliminary orders to provide notice and procedural due process so that all parties have the opportunity for a full, fair and impartial hearing. The primary concern of the Judge is to ensure the creation of a complete and competent record upon which the PSC may base its decision. The Judge is responsible for the case from initial assignment through to the post-hearing briefs and preparation of a final order reflecting the Commission's findings of fact and conclusions of law.

The Rate Making Process

Before a regulated electric or natural gas utility can change a rate or service, it must first file that request with the Missouri Public Service Commission. Under the traditional (formal) rate case filing, the company must provide a clear statement of what it is requesting, the effect the proposed change will have on company revenue, and the reasons for the change.

Many telecommunications providers in Missouri are under price cap regulation, which means they do not have to file a traditional rate case with the Com-



Administrative Law Judge Vicky Ruth prepares an order for the Commission's review.

mission to adjust rates either up or down. Special rules apply for water and sewer companies with fewer than 8,000 customers in Missouri, which can pursue changes in rates (through an informal rate case procedure). Water and sewer companies with over 8,000 customers are subject to filing a traditional rate case. The PSC does not regulate the rates of municipal electric, gas, or water and sewer systems, rural electric cooperatives, public water supply districts or public sewer districts, wireless telephones or cable television.

Procedural Schedule

When a regulated Missouri utility files for a rate increase, the Commission sets a procedural schedule, including hearing dates, for the case. By law, the Commission has 11 months from the date the case is filed to make a decision on the proposal.

When issues are complex, the Commission suspends the proposed rates to allow for an appropriately thorough investigation. Existing rates remain in effect during the suspension period.

Prior to any hearings, the PSC Staff will conduct an independent investigation into the company's books and records. This permits the Staff to provide the Commission with a recommendation in the case.

Other parties, such as the Office of the Public Counsel, consumer groups, or industrial customers may also submit recommendations as to what type of rate change, if any, should be granted. Parties in a rate

case meet in a pre-hearing conference to discuss issues in the case. This procedure may help parties reach agreements which settle all or some issues.

This frequently results in cases being concluded sooner than the 11-month time period provided by law. The Commission must review any proposed settlement to ensure that the agreement is reasonable and in the public interest.

The Hearing Process

Evidentiary hearings are held for which testimony is prepared, exhibits are marked, and a court reporter records the proceedings. Testimony must address the issues in the case.

The utility company will have an attorney and expert witnesses present to testify and answer questions. In most cases, the utility, the PSC Staff, Public Counsel and any intervenors will present testimony in writing, followed by cross-examination at the hearing.

In some cases, the Commission will hold a local public hearing, giving customers an opportunity to express their opinions. Local public hearings are generally held in communities affected by the proposal.

After the hearings are complete, a transcript of the case is prepared and parties file briefs. Commissioners review that record in making their decision.

The Decision

The Commission may determine that the proposal is justified only in part, and it may allow the company to increase rates less than the utility requested. The Commission may also allow a rate change to take effect on an interim basis, subject to refund, or permit rate decrease cases where it may consider lowering rates. The Commission will only authorize rate changes that are fair and reasonable. The company must be allowed the opportunity to make enough money to meet reasonable expenses, pay interest on debts, and provide a reasonable return to stockholders.

The Commission gives its decision through a written report and order. That order is subject to appeal to a court by any of the participants in the case, except the Public Service Commission Staff.

Mediation Process

Parties may refer complaint cases to a third-party neutral mediator, available at no cost. The mediation process is voluntary, and cases are resolved when both parties come to a mutual agreement.

Annual Report Compliance Up Due to Increased Enforcement Efforts

All regulated utilities are required to file annual reports with the Commission to provide current information about company management and operations, subject to penalties for failure to comply. Compliance with this requirement as recently as 2002 was below 50%, largely due to problems with telecommunications entities—specifically competitive local exchange companies (local phone service) and interexchange companies (long-distance service). Company departures from the Missouri market without Commission notification, coupled with many similar and duplicative company and d/b/a names in Commission records contributed to database inaccuracies and low report filing percentages.

An interdepartmental team of Commission staff has worked to identify defunct companies and correct database inaccuracies, as well as target noncompliant companies for certificate termination and penalty cases to be filed before the Commission. 2004 annual reports received by the April 15, 2005 deadline were up 41.5% over the amount received on the same date in 2003 and the overall report compliance percentage for the 2004 report year has improved to 93.2%.